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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/989,390	11/21/2001	Masahiko Ohki	0229-0676P	1335

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BIRCH STEWART KOLASCH & BIRCH  
PO BOX 747  
FALLS CHURCH, VA 22040-0747

EXAMINER

EASHOO, MARK

ART UNIT	PAPER NUMBER
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1732

DATE MAILED: 10/16/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/989,390

Applicant(s)

OHKI, MASAHIKO

Examiner

Mark Eashoo, Ph.D.

Art Unit

1732

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 24 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) 7-13 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1,5 and 6 is/are rejected.
- 7) ☒ Claim(s) 2-4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other: \_\_\_\_\_

***Election/Restrictions***

Applicant's election with traverse of claims 1-6, group I, in Paper No. 7, filed 24-JUL-2003, is acknowledged. The traversal is on the ground(s) that there is no significant burden placed on the examiner. This is not found persuasive because the specifics to examine a process, namely the stepwise claim limitations and the material undergoing a change in physical or chemical state, are not required when examining an apparatus, which is limited only by structural limitations. Although a process claim may contain apparatus limitations, they are only given patentable weight as to how the structure effects the stepwise process. Similarly, the specifics of an apparatus do not require the same consideration of stepwise process limitations as in a process claim but rather only that the structure is capable of performing such process step.

The requirement is still deemed proper and is therefore made FINAL.

Claims 7-13 are withdrawn from further consideration pursuant to 37 CFR 1.142(b), as being drawn to a nonelected claim grouping, there being no allowable generic or linking claim. Applicant timely traversed the restriction (election) requirement in Paper No. 7.

***Priority***

Acknowledgment is made of applicant's claim for foreign priority based on an application filed in Japan on 22-NOV-2000. It is noted, however, that applicant has not filed a certified copy of the Japanese 2000-355991 application as required by 35 U.S.C. 119(b).

***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States

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Claims 1, 5, and 6 are rejected under 35 U.S.C. 102(b) as being anticipated by Greenwood et al. (US Pat. 3,486,195).

Regarding claim 1: Greenwood et al. teaches the claims process of extruding a rubber intermediate product (1:10-30), comprising: a die plate having an inflow port (Fig. 1, elements 36, 38 and 54); a discharge port (Fig. 1, elements 36, 38 and 54); a flow path connecting inflow and out flow ports (Fig. 1, elements 36, 38 and 54); a discharge port having a flat shape having a cross-sectional area with a lower section having a smaller height than a higher section such that the height of an extrudate would vary in thickness across its width (2:32-48 and Fig. 2); and a uniform extrusion speed or mass flow rate (4:1-28).

Regarding claim 5: Greenwood et al. further teaches: a performer (Fig. 1, element 30) upstream and adjacent a die plate (Fig. 1, element 38); a performer having a receiving port receiving rubber from an extruder (Fig. 1); sending rubber from a performer, via an intermediate flow path, to a die plate (Fig. 1); and a receiving port of a performer having a shape close to that of a discharge port in a die plate (Figs. 1, 2, 4-6).

Regarding claim 6: Greenwood et al. further teaches a tire tread (1:10-30).

#### ***Allowable Subject Matter***

Claim 2 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or render obvious a flow path through a die plate having the ratio of areas in the various sections as instantly claimed.

Claims 3 and 4 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is a statement of reasons for the indication of allowable subject matter: the prior art of record does not teach or render obvious a flow path through a die plate having an lower section with the instantly claimed triangular shape and at least one protruding section.

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The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. Kohlepp et al., Schippers et al., Ohkawa et al., Simpson, Arbour et al., Nakamura et al., Tieu et al. '564 and '510, Grossi, and Helle et al.

***Correspondence***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mark Eashoo, Ph.D. whose telephone number is (703) 308-3606. The examiner can normally be reached on 7am-3pm EST, Monday - Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Colaanni can be reached on (703) 305-5493. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9306.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0661.



Mark Eashoo, Ph.D.  
Primary Examiner  
Art Unit 1732

10/6/03

me  
10/6/03